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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 WILLIAM EARL LOZANO,

11 Plaintiff,

12 v.

13 MICHAEL LAURITZEN,
14 JONATHAN W. PEDERSEN,

15 Defendants.

CASE NO. 3:19-CV-6197-BHS-DWC

ORDER ON MOTION TO APPOINT
COUNSEL

16 The District Court has referred this 42 U.S.C. § 1983 action to United States Magistrate
17 Judge David W. Christel. Currently pending in this action is Plaintiff William Earl Lozano's
18 Motion for Court Appointed Counsel. Dkt. 5.

19 No constitutional right to appointed counsel exists in a § 1983 action. *Storseth v.*
20 *Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981); *see United States v. \$292,888.04 in U.S.*
21 *Currency*, 54 F.3d 564, 569 (9th Cir. 1995) (“[a]ppointment of counsel under this section is
22 discretionary, not mandatory”). However, in “exceptional circumstances,” a district court may
23 appoint counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1) (formerly 28
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1 U.S.C. § 1915(d)). *Rand v. Roland*, 113F.3d 1520, 1525 (9th Cir. 1997), *overruled on other*
2 *grounds*, 154 F.3d 952 (9th Cir. 1998). To decide whether exceptional circumstances exist, the
3 Court must evaluate both “the likelihood of success on the merits [and] the ability of the
4 [plaintiff] to articulate his claims *pro se* in light of the complexity of the legal issues involved.”
5 *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986) (quoting *Weygandt v. Look*, 718
6 F.2d 952, 954 (9th Cir. 1983)). A plaintiff must plead facts showing he has an insufficient grasp
7 of his case or the legal issues involved and an inadequate ability to articulate the factual basis of
8 his claims. *Agyeman v. Corrections Corp. of America*, 390 F.3d 1101, 1103 (9th Cir. 2004).

9 Plaintiff requests Court-appointed counsel because he believes his due process claim has
10 merit and he has the necessary proof to support his claim. Dkt. 5 at 4. Plaintiff has not shown,
11 nor does the Court find, this case involves complex facts or law. Plaintiff has also not shown an
12 inability to articulate the factual basis of his claims in a fashion understandable to the Court, nor
13 has he shown he is likely to succeed on the merits of this case. Accordingly, Plaintiff’s Motion
14 (Dkt. 5) is denied without prejudice.

15 Dated this 7th day of January, 2020.

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18 David W. Christel
19 United States Magistrate Judge
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